

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: 4/20/05

Division: County Attorney

Bulk Item: Yes ☐ No ☒

Department: County Attorney

Staff Contact Person: Bob Shillinger

AGENDA ITEM WORDING:

Request for approval to schedule a closed attorney client session of the BOCC on May 18, 2005 to discuss settlement negotiations or strategy sessions related to litigation expenditures in the case of *Monroe County v. Post, Buckley, Schuh & Jernigan*.

ITEM BACKGROUND:

The County sued its former engineering firm for professional malpractice as a result of erroneous cost estimates that Post Buckley prepared with respect to improvements to Card Sound Road. The County had relied on those estimates in its decision to issue bonds to finance the repairs. The actual bids came in substantially lower than the cost estimates which resulted in the bonds being issued unnecessarily. Through this suit, the County is attempting to recoup the costs it erroneously expended as a result of Post Buckley's error.

This matter was tried to a verdict in favor of the County in October 2001. That verdict was reversed on appeal due to an erroneous jury instruction. In August of 2003, the Third DCA remanded the case for a retrial, which is scheduled for June 6, 2005 in Key West. On April 4, 2005, Judge Payne denied Post Buckley's latest motion to dismiss.

Special litigation counsel Wayne Smith advised County staff to request the special session prior to the June 6, 2005 trial date in the event settlement discussions are productive. The only cost involved in a closed session would be the advertising costs and court reporter's appearance and transcription fee.

PREVIOUS RELEVANT BOCC ACTION:

The Board discussed this case at various times during its 10 year history and authorized the payment of attorney's fees as well as trial and appellate costs.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS:

Approval

TOTAL COST: @\$100.00

BUDGETED: Yes ☒ No ☐

COST TO COUNTY: @\$100.00

SOURCE OF FUNDS: _____

REVENUE PRODUCING: Yes ☐ No ☒

AMOUNT PER MONTH _____ **Year** _____

APPROVED BY: County Atty AK OMB/Purchasing _____ Risk Management _____

DIVISION DIRECTOR APPROVAL:

John R. Collins 04/05/05
JOHN R. COLLINS, COUNTY ATTORNEY

DOCUMENTATION: Included ☐

Not Required XXXXX

DISPOSITION: _____

AGENDA ITEM # _____